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Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

WILLIAM JENSEN
125 Santa Paula
Oxnard, CA 93035

Physical Therapist License No. AT 5866

Respondent.

Case No. 1D 2001 62727

A C C U S A T I O N

Complainant alleges:

PARTIES

1. Steven K. Hartzell ("Complainant") brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs. 3

2. On or about September 13, 2000, the Physical Therapy Board ("Board") issued Physical Therapist License Number AT 5866 to William Jensen ("Respondent"). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2001, unless renewed. 6

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following sections of the Business and Professions Code ("Code").



4. Section 2660 of the Code states:

"The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes:

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"(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist. The record of

conviction or a certified copy thereof shall be conclusive evidence of that conviction.

“(f) Habitual intemperance.

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“(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.” 5

5. Section 2239 of the Code states:

“(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

“(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Division of Medical Quality may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.”



6. Section 2661 of the Code states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.”



7. Section 2661.5 of the Code states, in pertinent part:

“(a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.”

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FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)



8. Respondent is subject to disciplinary action under Code section 2660, subdivision (d), in that he has been convicted of a crime substantially related to the qualifications, functions, and duties of a physical therapist in that he pled guilty to one count of driving under the influence of alcohol or drugs. The circumstances are as follows:

9. On or about August 4, 2000, in a criminal proceeding entitled People of the State of California v. William Michael Jensen in Ventura

County Superior Court, case number 00S002410, Respondent pled guilty to driving under the influence of alcohol in violation of California Vehicle Code section 23512, subdivision (a), a misdemeanor. On or about August 4, 2000, the Ventura County Superior Court sentenced Respondent to 48 hours of jail time, formal probation of 36 months, a fine of \$1,480.00, and a restriction on driving privileges for 90 days. The conviction was based on the facts described in paragraphs 10 through 15, inclusive, below.

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10. On or about July 4, 2000, at about 10:22 P.M., Respondent was driving northbound on Sunset Lane towards W. Channel Islands Blvd. in the area of Hollywood Beach. Despite traveling northbound, Respondent was driving in the southbound lane with his lights off. When the vehicle reached the intersection at W. Channel Islands Blvd, it was spotted by Ventura County Sheriff's Deputies who were on horseback.

11. The deputies yelled at the Respondent to stop his vehicle. Instead of stopping, Respondent quickly accelerated the vehicle away from the deputies in an attempt to evade them. The deputies pursued the vehicle with their horses at full gallop. Due to traffic conditions, Respondent was forced to stop his vehicle behind several stopped vehicles. Respondent then attempted to back-up his vehicle to avoid the Deputies and escape. Deputy K. stopped his horse at Respondent's driver's side window to block any escape.

12. When Deputy K. reached the driver's side window of Respondent's vehicle, he observed the Respondent climbing over the driver's side seat to the passenger's side seat. Deputy K. also observed M.H., the person in the passenger seat, move over to the driver's side seat. Deputy K. ordered M.H. to pull the vehicle over to the curbline. Deputy K. then had Respondent and M.H. exit the vehicle. Deputy K. noticed that Respondent's eyes were red and watery. While patting Respondent down, Deputy K. noticed that Respondent had a strong odor of alcoholic beverages on his person. When asked how many drinks he had had, Respondent stated that he had drunk two Sierra Nevada beers and a shot of Jack Daniels.

13. When Deputy K. searched underneath the driver's side seat, he noticed several empty Coors beer cans. Deputy K. also saw two open cans of Coors beer on the passenger side of the car. In addition, he noticed a lot of spilled beer on the on the floorboard of the car. Respondent admitted to

Deputy K. that one of the open beer cans was his. He also stated that he switched from the driver's side seat to the passenger's side seat because he was afraid of losing his license.

14. An "Intoxilyzer" breath test revealed that Respondent's blood alcohol level was .14 BAC at 23:28 hours, .15 BAC at 23:34 hours, and .13 BAC at 23:37 hours. Respondent was booked into the main jail.

15. After Respondent was taken away, M.H. told Deputy K. that she had been driving the vehicle after she and Respondent left a friend's house in the Hollywood Beach area. Respondent became frustrated because M.H. would not drive on the wrong side of the road to avoid the traffic. M.H. had then stopped the vehicle and let Respondent drive.

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SECOND CAUSE FOR DISCIPLINE

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(Conviction of a Crime) 

16. Respondent is subject to disciplinary action under Code section 2660, subdivision (d), in that he has been convicted of a crime substantially related to the qualifications, functions, and duties of a physical therapist in that he pled guilty to one count of driving while ability impaired. The circumstances are as follows:

17. On or about July 13, 1998, in a criminal proceeding entitled The People of Colorado v. William Jensen in Morgan County Court, case number 1998 T 000356, Respondent pled guilty to Colorado State Statute 42-4-1301 (1) (b), Driving While Ability Impaired, a misdemeanor. Respondent was sentenced to 2 years supervised probation, 24 hours community service, and fines which totaled \$554.00. 

THIRD CAUSE FOR DISCIPLINE

(Use of Alcohol by a Licensee Which is Dangerous to the Public)



18. Respondent is subject to disciplinary action under Code section 2239, subdivision (a), in conjunction with Code section 2660, subdivision (i), in that he has used alcoholic beverages in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public.

The circumstances are as follows:

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19. The facts and allegations in paragraphs 9 through 17, inclusive, are incorporated here by reference.

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FOURTH CAUSE FOR DISCIPLINE

(Habitual Intemperance)



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20. Respondent is subject to disciplinary action under Code section 2660, subdivision (f), in that he has used alcoholic beverages in such a manner as to constitute habitual intemperance. The circumstances are as follows:

21. The facts and allegations in paragraphs 9 through 17, inclusive, are incorporated here by reference.

DISCIPLINE CONSIDERATIONS

22. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about July 13, 1998, in a prior criminal proceeding entitled The People of Colorado v. William Jensen in Morgan County Superior Court, Case Number 1998 T 000356, Respondent was convicted of violating Colorado State Statute 42_4_1301 (1) (b), Driving While Ability Impaired, a misdemeanor and was sentenced to 2 years supervised probation, 24 hours community service, and fines which totaled \$554.00.



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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy

Board issue a decision:

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1. Revoking or suspending Physical Therapist License Number AT 5866, issued to William Jensen;
2. Ordering William Jensen to pay the Physical Therapy Board the reasonable costs of the investigation and enforcement of this case,

pursuant to Business and Professions Code section 2661.5;

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3. Taking such other and further action as deemed necessary and proper.

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DATED: August 10, 2001

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Original signed by Steven K. Hartzell

STEVEN K. HARTZELL

Executive Officer

Physical Therapy Board of California

Department of Consumer Affairs

State of California

Complainant